

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Daniel E. & Carolyn M. Haines,**  
Petitioner-Appellants,

v.

**Pottawattamie County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-78-0218**

**Parcel No. 045-014-013-012-917-000-000**

On December 22, 2009, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellants, Daniel E. and Carolyn M. Haines, requested the appeal be considered without hearing and submitted evidence in support of their petition. They are self-represented. The Board of Review designated Assistant County Attorney Leanne A. Gifford its legal representative. It certified its record and also submitted evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

***Findings of Fact***

Daniel and Carolyn Haines, owners of property located at 19310 Mynster Springs Road, Council Bluffs, Iowa, appeal from the Pottawattamie County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story frame dwelling with 800 square feet of living area and two additions of 240 square feet and 480 square feet built in 1903. It also has a 119 square foot one-story addition and a 493 square foot two-story addition built in 2008. The card also reports the dwelling has no basement, an open porch, and a 576 square-foot detached two-car garage built in 1980. The dwelling has a total of 2625 square feet of

living area. The home is in below-average condition. The dwelling is situated on a 2.90 acre site. The property record card lacks information on depreciation or obsolescence discounts.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$154,600, representing \$46,700 in land value and \$107,900 in dwelling value.

The Haines protested to the Board of Review on the grounds that the property was assessed for more than authorized under Iowa Code section 441.37(1)(b); that the property is misclassified under section 441.37(1)(c); and that there had been a downward change in value under sections 441.37(1) and 441.35(3). They claimed that \$104,123; allocated \$46,700 to land value and \$57,423 to the dwelling value, was the actual value and a fair assessment of the property. The Board of Review denied the protest stating that the evidence was not sufficient to prove the assessment is excessive, that the ground of misclassification was inapplicable and that the protest failed to prove a change in value of the real estate since it was last reassessed.

The Haines filed their appeal with this Board and urged the grounds of over-assessment and downward change in value for relief. They submitted photographs of the subject property to show foundation defects, structural deficiencies, leaks, substandard materials and poor dwelling condition.

The certified record contained a comparable sales analysis, presumably prepared by the assessor's office, with an indicated value of the subject property of \$166,500. The analysis included three sales with an unadjusted sales range of \$89.01 per square foot to \$128.95 per square foot and a median of \$99.75 per square foot. Since the properties compared all have significantly less square feet of living area than the subject, we question whether they are truly comparable. No information regarding the age or location of these properties was provided. Additionally, the condition of the subject is considered normal in the analysis, whereas the photographs memorialize considerable evidence suggesting below-average or poor condition as indicated on the property record card. We note that the analysis adjusted for differences in the properties including size, grade, number of baths,

and other amenities. According to the analysis, the Haines property is assessed at \$58.90 per square foot which is well below the range of the sales analyzed.

To be successful in a claim that property is assessed for more than authorized by law, property owners are required to prove that their property is over-assessed and also prove the actual fair market value of their property. Although the photographs provided do support the Haines' contention of significant dwelling deficiencies, nothing was offered to show how these deficiencies affect the fair market value of their property. Reviewing all the evidence, we find the evidence is insufficient to support a conclusion that the Haines' property is over-assessed as of January 1, 2009.

### *Conclusion of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or

comparable properties in normal transactions are also to be considered in arriving at market value. *Id.*

If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).

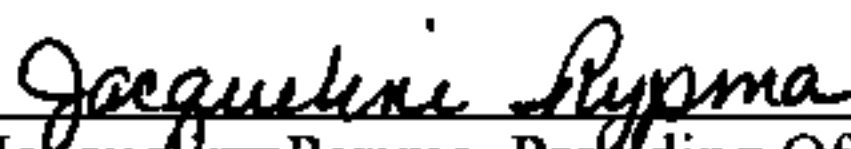
The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Although evidence did suggest that the assessment may be excessive, the Haines failed to present the required evidence of the actual fair market value of their property.

Viewing the evidence as a whole, we determine the Haines failed to prove their claim of over-assessment as of January 1, 2009. We affirm their property assessment as determined by the Board of Review. The property's assessed value as of January 1, 2009, is \$154,600, representing \$46,700 in land value and \$107,900 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Pottawattamie County Board of Review is affirmed.

Dated this 22 day of February 2010.

  
Jacqueline Rypma, Presiding Officer

  
Richard Stradley, Board Member

  
Karen Oberman, Board Chair

Copies to:  
Daniel E. & Carolyn M. Haines  
19310 Mynster Springs Road  
Council Bluffs, IA 51503  
APPELLANTS

Leanne A. Gifford  
Assistant Pottawattamie County Attorney  
227 South Sixth Street, Suite 532A  
Council Bluffs, IA 51501  
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>2-22</u> , 201 <u>0</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>Leanne A. Gifford</i></u>